

October 1993

**FEDERAL CONTRACTOR  
HIRING**

**Effect of Veteran Hiring  
Legislation Is Unknown**



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United States  
General Accounting Office  
Washington, D.C. 20548

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General Government Division

B-249138.2

October 18, 1993

The Honorable G.V. (Sonny) Montgomery  
Chairman, Subcommittee on Education,  
Training and Employment  
Committee on Veterans' Affairs  
House of Representatives

The Honorable Tim Hutchinson  
Ranking Minority Member, Subcommittee  
on Education, Training and Employment  
Committee on Veterans' Affairs  
House of Representatives

The Honorable Douglas Applegate  
House of Representatives

The Honorable Christopher H. Smith  
House of Representatives

This report responds to your concerns about the effectiveness of laws and regulations that are intended to increase the hiring of veterans and whether and to what extent the federal government and federal government contractors are providing hiring preference to veterans.<sup>1</sup> In March 1992, we reported that the Office of Personnel Management (OPM) had in place a hiring mechanism that provides veterans' preference for federal jobs as required by law but that veterans were not always hired because federal managers are not required to use this mechanism.<sup>2</sup> Managers used a variety of other hiring methods to assist them in hiring the candidates they believed to be the best qualified, and many of these methods did not provide for veterans' preference. As a result of our report, OPM instructed its field offices to closely monitor and analyze reasons agencies were not using hiring methods that provided for veterans' preference.

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<sup>1</sup>The request to us was originally made by Representative Applegate, the former Chairman of the Subcommittee on Compensation, Pension and Insurance, House Committee on Veterans' Affairs, and by Representative Smith, the former Ranking Minority Member, Subcommittee on Education, Training and Employment.

<sup>2</sup>Federal Hiring: Does Veterans' Preference Need Updating? (GAO/GGD-92-52, Mar. 20, 1992).

In this report, we address the special consideration that federal contractors,<sup>3</sup> working with state job service centers, are to give special disabled and Vietnam-era veterans.<sup>4</sup> Specifically, this report addresses

- whether and to what extent federal contractors and state job service centers are fulfilling the requirements of the legislation designed to provide veterans with special consideration for employment and
- the effect of this legislation on the hiring of veterans by federal contractors.

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## Background

In 1972, Congress enacted the Vietnam Era Veterans' Readjustment Assistance Act, which contained a provision (38 U.S.C. 4212) to promote the employment of special disabled and Vietnam-era veterans by federal contractors. The law, as amended, has four key requirements; three of the requirements are directed at federal contractors, and one, at state job service centers. Federal contractors must take affirmative action in employing special disabled and Vietnam-era veterans, list job openings with state job service centers, and prepare annual reports on their employment of veterans. State job service centers must give veterans priority when making referrals to contractors.

Congress charged the Department of Labor with monitoring and overseeing the fulfillment of these requirements. Labor's Office of Federal Contract Compliance Programs (OFCCP) and Veterans' Employment and Training Service (VETS) are largely responsible for these functions.

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## Approach

To determine whether federal contractors are fulfilling the legislative and regulatory requirements, we reviewed the hiring practices of 29 judgmentally selected contractors. To make the same determination regarding state job service centers, we interviewed 25 judgmentally selected job service center managers in 13 states. To determine how Labor reviews federal contractor compliance, we interviewed six OFCCP officials in regional and district offices and reviewed contractors that OFCCP had previously reviewed. To select federal contractors and state job service center and Labor officials, we sought variety in the types and sizes of

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<sup>3</sup>The legislation applies to first-tier subcontractors as well.

<sup>4</sup>A special disabled veteran must have (1) a disability rated at a minimum of 30 percent, (2) a disability rated at a minimum of 10 percent along with a serious employment handicap, or (3) a discharge from active duty because of a service-connected disability. A Vietnam-era veteran must have served in the armed forces between August 1964 and May 1975.

contractors, their geographic representation, and their relative success in placing veterans. We also reviewed national data on the referrals and placements of special disabled and Vietnam-era veterans by job service centers. In addition, we reviewed the results of Labor's contract compliance audits. We did our work from January 1992 through April 1993 in accordance with generally accepted government auditing standards. However, we did not verify employment statistics prepared by Labor. Details of our scope and methodology are contained in appendix I.

## Results in Brief

Although their efforts on behalf of veterans vary, federal contractors and state job service centers are generally meeting the requirements of the federal contractor legislation. However, the impact of this legislation on the number of veterans hired by federal contractors cannot be determined with assurance for the following two reasons:

- Neither the legislation nor the regulations implementing it identify a reliable means by which to evaluate the impact of these efforts on veteran employment levels or to ensure that the necessary data will be generated to carry out such an evaluation.
- No firm cause-and-effect relationship has been established between efforts to promote the hiring of veterans under the legislation and actual hiring practices.

Moreover, the legislation's affirmative action requirements have created confusion among veterans. Twenty-two of the 25 job service center managers we contacted told us that veterans do not understand affirmative action requirements related to federal contractors' hiring of veterans. Specifically, veterans assumed that affirmative action by contractors represented a guarantee of employment. They also misunderstood the difference between veterans' preference, which is provided to veterans by federal government employers, and the nonbinding consideration that is given to veterans by federal contractors.

As we reviewed the regulations that implemented the federal contractor legislation, a broader issue emerged—one that was outside the scope of our objectives but that our review indicated may be appropriate to consider in the future. This Vietnam-era legislation is now more than 20 years old. The Vietnam-era veterans whose readjustment and employment opportunities the law was designed to enhance are older, and the number of such veterans entering the general workforce is declining. These Vietnam-era veterans also have a lower overall unemployment rate than

nonveterans. The goals and provisions of the legislation may need reexamining regardless of how effective the legislation is now.

## Federal Contractors and Job Service Centers Generally Are Meeting the Requirements of the Law

Although their efforts on behalf of veterans varied, the federal contractors and job service centers we reviewed were generally meeting legislative requirements designed to provide veterans with special consideration for employment. Our findings regarding compliance with the four key requirements of the law—affirmative action, job listings, annual reports by federal contractors, and priority referrals of veterans by state job service centers—are summarized in the following four sections.

### Federal Contractors' Affirmative Action Measures Focus on Compliance Rather Than on Outcome

Federal contractors who receive contracts of \$10,000 or more are required to take affirmative action to hire and advance special disabled and Vietnam-era veterans. In auditing contractor compliance with affirmative action requirements, OFCCP defines affirmative action as "specific and result-oriented actions or procedures to which a federal contractor commits itself to apply every good faith effort to ensure equal employment opportunity." OFCCP further defines "good faith effort" as actions that "evidence an attempt to comply with the equal opportunity and affirmative action clauses of the contract."

In the implementation of the regulations, OFCCP specifies a series of affirmative action requirements for federal contractors, such as positive recruiting efforts and accommodations for disabled veterans. While no specific action is required of federal contractors concerning the recruiting requirement, a series of suggested actions is provided. These actions include enlisting the support of Local Veterans Employment Representatives at state job service centers to recruit veterans and to develop on-the-job training opportunities for veterans whenever feasible.<sup>5</sup> If the suggested actions are taken, they may provide enhanced opportunities for veterans seeking employment. However, nothing in the law or the regulations specifies a goal of increasing the numbers of special disabled and Vietnam-era veterans in the federal contractor workforce.

Federal contractors with 50 or more employees and a contract of \$50,000 or more are required to prepare affirmative action plans addressing veterans. To determine contractors' commitments to affirmative action,

<sup>5</sup>Local Veteran Employment Representatives are to ensure that state job service centers comply with federal regulations regarding veterans. Located at job service centers, they are to maintain regular contact with employers and veterans' advocacy groups.

we examined the affirmative action plans prepared by the contractors we reviewed. The plans typically reflected a commitment to meet the requirements of the law. The plans contained sections on outreach and positive recruitment but not on specific veteran hiring goals or methods of achieving such goals.

OFCCP had previously reviewed 27 of the 29 contractors that we reviewed. For 2 of the 27 contractors, OFCCP had retired its audit files, so we could not review them. Of the remaining 25 contractors, 9 had been cited by OFCCP for inadequate affirmative action. OFCCP cited inadequacies that included a failure to prepare affirmative action plans or to post notices informing employees or applicants for employment that such plans were available for inspection. The violations all involved a failure to follow the procedures identified in the law or the regulations; none involved a failure to achieve specific hiring commitments (as no commitments were required) or to take results-oriented actions. Three of six OFCCP officials with whom we spoke said that it is difficult to interpret the affirmative action requirements because the regulations do not define affirmative action for veterans in terms of goals that are quantitatively specific.

The lack of specific goals in affirmative action requirements has also created confusion among veterans. For example, 22 of the 25 job service center managers we contacted told us that veterans do not understand affirmative action requirements related to contractor hiring of veterans. Specifically, veterans assumed that affirmative action by contractors represented a guarantee of employment. They also misunderstood the difference between veterans' preference, which is provided to veterans by federal government employers, and the consideration, which is given veterans by contractors.

### Contractors' Job Listings Are Inconsistent Because of Regulations That Limit Salaries

The law requires federal contractors to list suitable job openings with state job service centers. Some federal contractors list all of their job openings with centers, but others follow Labor regulations and instructions that leave jobs with salaries of \$25,000 or more not listed.

In defining "suitable employment openings," OFCCP's implementing regulations state:

"The term '[a]ll suitable employment openings' includes, but is not limited to the following job categories:

- production and nonproduction;
- plant and office;
- laborers and mechanics;
- supervisory and nonsupervisory;
- technical; and
- executive, administrative, and professional openings as are compensated on a salary basis of less than \$25,000 per year.

“This term includes full-time employment, temporary employment of more than 3 days’ duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement . . .”

In addition, Labor’s instructions to federal contractors state that the job listing and other affirmative action requirements apply “to jobs starting under \$25,000 at all levels of employment, including the executive level.”

Labor’s salary limit on job listings was last changed in 1975, when it was increased from \$18,000 to \$25,000 to reflect the then-current economic levels. No provision was made at that time for future periodic adjustments of the limit.

Of the 29 federal contractors we reviewed, 5 told us that they list all jobs, regardless of salary. However, the others either had no qualifying jobs to list or listed only jobs paying less than \$25,000 a year. OFCCP and regional Labor officials told us that most or all jobs with salaries of \$25,000 or more are not listed.

The effect of Labor’s salary limitation of \$25,000 is to exclude all but the lowest paying positions from being listed with state job service centers.

Labor officials told us that they are reviewing the basis for the limitation and are considering removing it.

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**Contractors Are Complying With Annual Hiring Report Requirements, but the Reports Are Not Used to Judge Sufficiency of Hiring**

Each year, federal contractors with a contract amount of \$10,000 or more are required to report to VETS the number of special disabled and Vietnam-era veterans they currently employ as well as the number hired during the previous year. Of the 29 contractors we reviewed, 24 had submitted the required report—known as the Federal Contractor Veterans Employment Report, or VETS-100. As we explain later, however, Labor has

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not used VETS-100 data to judge the sufficiency of veteran hiring—either by individual federal contractors or by federal contractors as a whole.

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**Priority Referral Procedures Vary, and the Impact of Priority Referrals Cannot Be Determined**

Job service centers are required to provide veterans with priority in referrals to federal contractor job openings. State job service center officials told us that in complying with this requirement, job service centers suppress or hold job orders to allow for the exclusive referral of veterans. Some job service centers we visited referred special disabled and Vietnam-era veterans exclusively for 2 hours before referring other veterans and nonveterans. Other centers we visited referred only special disabled and Vietnam-era veterans for up to 48 hours, depending on the availability of candidates who would satisfy the contractors' needs. Veterans who were not readily available during these time frames were not considered for referral.

The success of priority referrals in obtaining employment for veterans depends on the recruiting and hiring practices of federal contractors. Some contractors we reviewed told us they hired applicants from among the first who applied for a position. In these cases, veterans would have an advantage over nonveterans if they were among the first to be referred by state job service centers. Other contractors, however, accepted and considered applications from a variety of sources over an extended period. In these cases, the veterans who were referred ahead of nonveterans from job service centers would have no advantage over the nonveterans.

Information is lacking to show the impact of priority referral on veteran hiring. While Labor compiles statistics to show the numbers of referrals made by state job service centers and the numbers of placements made of those referred, data are not collected on the numbers of veterans referred on a priority basis and their subsequent hires. Therefore, the effect that priority referral had in any of the placements is unknown.

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## The Effect of the Legislation on the Hiring of Veterans by Federal Contractors Cannot Be Determined With Assurance

Contractors are required to follow certain procedures regarding the listing of job openings and job service centers are to follow certain procedures for the referral of special disabled and Vietnam-era veterans. However, no data are available to measure the impact of these procedures on the employment of veterans by federal contractors.

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## Reliable Means of Evaluating the Impact of the Legislation Have Not Been Established

As we discussed earlier, OFCCP, which administers the legislation, defines affirmative action as "specific and result-oriented actions or procedures to which a federal contractor commits itself to apply every good faith effort to ensure equal employment opportunity." The legislation itself does not specify goals that are to be accomplished by the hiring efforts of federal contractors or state job centers.

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## Data Are Not Available to Analyze the Employment of Veterans by Federal Contractors

Although Labor and other organizations gather and publish a wealth of statistics on veteran employment and workforce composition, data are not available to (1) compare veteran employment levels or hiring trends of federal contractors with those levels or trends in the private sector workforce as a whole or (2) determine the levels of veteran hiring, if any, that result directly from affirmative actions, job listings, or priority referrals.

A comparison of the relative number of special disabled and Vietnam-era veterans in the federal contractor workforce with that in the private sector workforce as a whole would be a useful indicator of the effects of the veterans' legislation.<sup>6</sup> If a greater percentage of the federal contractor workforce were veterans, this would indicate that affirmative action and other requirements of federal contractors could be having some positive effect. However, we found that sufficient information was not available to serve as such an indicator.

Labor and Equal Employment Opportunity Commission (EEOC) statistics are insufficient to allow a comparison of veteran employment levels in federal contractor and noncontractor sectors. As we mentioned earlier, federal contractors are required annually to submit a VETS-100. VETS-100

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<sup>6</sup>For an expanded discussion of this indicator, see the section "Potential Uses of Improved Data" on p. 11.

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reports show the numbers of veterans hired in the past year, with the numbers grouped according to special disabled veteran, Vietnam-era veteran, and total hires. The reports also show the numbers of on-board, or currently employed special disabled and Vietnam-era veterans. But these statistics are not meaningful without a perspective in which to consider them. That is, the VETS-100 reports do not contain the numbers of all of the employees of federal contractors.

EEOC also obtains reports from certain employers, including federal contractors with at least 50 employees; these reports show the numbers of employees by gender and ethnicity but do not contain information on veterans.

Bureau of Labor Statistics reports, which are published every 2 years, also show a multitude of statistics on veteran and nonveteran employment. The statistics are grouped by the type of veteran (e.g., Vietnam-era, disabled) and by type of employer (i.e., private sector, federal government, state and local government, and agricultural). However, they do not show federal contractor employment. Nor can they be compared to statistics extracted from VETS-100 reports, because the VETS-100 reports do not show total contractor employment or nonveteran employment.

In addition, Labor publishes statistics on the numbers of veterans and nonveterans referred to and hired by federal contractors and noncontractors. However, these statistics refer only to job service center referrals. Veterans and nonveterans who are hired from other sources are not included in the Labor statistics. Further, the state job service centers do not receive listings of job openings from all of the employers in their service areas. Job service center officials estimated that they receive listings for less than half of the available jobs in their areas.

Information is also unavailable to show the numbers of veterans hired by federal contractors directly as a result of affirmative actions, job listings, or priority referrals.

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## Efforts to Collect Measurable Data

So that federal contractors could meet their legislative mandate to annually report the number of special disabled and Vietnam-era veterans they hire, in 1986, Labor and EEOC developed the VETS-100 report we discussed earlier. As required by law (38 U.S.C. 4212), the report asks contractors for information on veterans and nonveterans who were hired during the prior 12-month period and on veterans who are on the

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contractors' payrolls. The report does not ask for information on nonveteran or total employment, and there is no specific legal requirement for such information.

In May 1986, Labor published a notice in the Federal Register concerning its plans to design the annual report for contractors, VETS-100. Labor noted that information legislatively required of contractors is intended to assist it in (1) determining whether special disabled and Vietnam-era veterans benefit from affirmative action in obtaining and advancing in employment and (2) ensuring that contractors comply with the statute. Labor received numerous comments on the Federal Register notice. In our opinion, one of the comments concisely stated the report's basic need—that it should “add a category for total employees in order to provide a more complete picture of the employer, a more adequate assessment of veterans' employment, and a more adequate basis for assessing efforts in employing covered veterans.” Labor agreed that such information would be helpful but did not adopt the recommendation “in keeping with [the] policy of reducing and/or minimizing burdens [on the contractor community].”

The VETS-100 report does not ask contractors to report their total number of employees because they provide that information to EEOC on the Form EEO-1. As a result, the data that could be used to determine the ratio of veterans to nonveterans are not all located at one agency. Labor has data from the VETS-100 report on the number of veterans in a contractor's workforce, and EEOC has data from the Form EEO-1 on the total number of employees in that workforce.

Labor had not gotten the data from EEOC because of concerns about the compatibility of the two systems. However, Labor and EEOC believe these concerns could be overcome without much difficulty. Labor officials said they planned to reexamine their concerns. Without data on contractors' total employment, Labor has been unable to (1) compute veteran-to-nonveteran ratios and (2) make comparisons with the percentage of veterans in the public sector workforce.

To determine if federal contractors would be burdened by having to report total employment statistics on the VETS-100 report, we asked the 29 contractors if they would be willing to provide their total employment statistics. Of the 29 contractors, 23 said they would be willing to provide such information. Of the six remaining contractors, two said they would not want to provide total hiring and employment data because it would pose an additional reporting burden. Four did not respond to the question.

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**Potential Uses of Improved Data**

If Labor were to obtain statistics from contractors on either their total or nonveteran workforce, it would be able to obtain an indication of the probable impact of affirmative action legislation. In addition, OFCCP would be better able to identify contractors that have a comparatively small veteran workforce and would then be able to target evaluations on the basis of the information.

Aggregate statistics from federal contractors on their total or nonveteran workforce would enable Labor to calculate the percentage of the contractor workforce composed of special disabled and Vietnam-era veterans. Labor could then compare these statistics with similar ones that are already available for the private sector as a whole. If the comparison showed that veterans made up a significantly higher percentage of the contractor workforce than they did of the total private sector workforce, it could indicate that affirmative action, mandatory job listing, and priority referral requirements did indeed result in veteran hires. On the other hand, if the comparison showed contractors had a similar or even lower, relative veteran workforce, compared to the total private sector workforce, it could indicate that the legislation was not contributing to veteran hires.

Statistics on total contractor employment would also enable OFCCP to better target its evaluations on contractor compliance. On the basis of available staff resources, OFCCP is able to perform compliance reviews of only about 6,000 of an estimated 130,000 contractors each year. To select contractors for review, OFCCP relies extensively on reports of women and minority compositions of the federal contractor workforce to schedule reviews of those contractors that appear to have an underrepresentation of women and minorities. Because information is unavailable on veteran compositions, however, OFCCP is unable to determine which contractors have a lower representation of special disabled and Vietnam-era veterans and thus is unable to include this information in scheduling contractors for review.

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**The Effect of Efforts to Promote Veteran Hiring Cannot Be Measured**

From July 1, 1990, to June 30, 1991, nearly 33,000 special disabled and Vietnam-era veterans who were referred by job service centers were hired by federal contractors. But as we mentioned earlier, there are no data showing the numbers of veterans hired by federal contractors as a direct result of job listings and priority referrals. And because neither the law nor the regulations specify a goal of hiring additional numbers of special disabled and Vietnam-era veterans by federal contractors, the relative

"success" of efforts by contractors and job service centers cannot be evaluated.

Moreover, the numbers of veterans benefiting from the efforts required under the legislation cannot be measured. While many veterans have undoubtedly benefited by the job listing requirement and priority referral process, many others are hired without the process. For example, federal contractors as well as noncontractors list jobs with state employment service centers because they need assistance in filling jobs; veterans as well as nonveterans have filled these positions without the benefit of mandatory job listings.

Some occurrences cast doubt on the effectiveness of the legislation. For example, 26 of the 29 contractors we reviewed did not know what the priority referral system was, and 10 could not tell which applicants were referred to them by state job service centers. Furthermore, 25 of the 29 contractors told us that when hiring they did not consider whether applicants were veterans. One of the four contractors that did consider whether applicants were veterans said it did so because veterans obtained the type of experience in the military that the contractor needed. Another contractor concentrated on hiring veterans after being cited for affirmative action violations by OFCCP. State job service center officials we contacted could not show that the priority referral system was an effective means of giving veterans an advantage in obtaining employment with contractors.

In addition, although job service centers maintain statistics on the number of veterans they referred who were hired, no information is available to show the extent to which priority referral was directly responsible for the hiring. That is, the veterans might have been hired even if they had been considered along with nonveteran applicants. Thus, the priority of the referral might have made no difference. Veterans are likely to be assisted by the priority referral requirement only if contractors hire from among the first applicants applying for vacancies.

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## Policy Considerations

The Vietnam Era Veterans' Readjustment Assistance Act was enacted in 1972, as the Vietnam War was ending and the population of veterans emerging from that war was at its youngest and most numerous. Although the legislative history of the act is not extensive, it indicates that one of the purposes of the act was to quickly and effectively enhance the employment opportunities of these veterans as they emerged from military service. Two decades have passed. Today, Vietnam-era veterans are

considerably older, and most of them have established careers. This raises a question as to whether the 20-year-old provisions of this legislation, which appear to be geared toward younger entry-level workers, are still likely to significantly benefit Vietnam-era veterans. In addition, the number of Vietnam-era veterans entering the general workforce is declining. And according to its most recent available data, the Bureau of Labor Statistics reported that Vietnam-era veterans had a lower unemployment rate than nonveterans (see table 1).

**Table 1: Unemployment Rates for Male Veterans and Nonveterans, as of September 1991**

In thousands			
	Employed	Unemployed	Unemployment rate
Nonveterans	39,681	2,172	5.2
All veterans	15,435	779	4.8
Vietnam-era veterans	6,868	365	5.0

Note: We excluded data on women because complete statistics on women veterans are not reported by the Bureau of Labor Statistics. We also excluded data on nonveterans under the age of 25 because this age group, in general, historically has had a high unemployment rate. The unemployment rate is the number of unemployed divided by the sum of those employed and unemployed.

Source: Bureau of Labor Statistics data.

The issue of the continued appropriateness of all parts of the 1972 federal contractor legislation lay outside the scope of our review. We did not, therefore, develop a methodology or gather data to address it.

## Conclusions

Because the veterans' legislation does not contain any reliable standard for evaluating its effectiveness, the effect of the legislation on the hiring of veterans by federal contractors cannot be determined with assurance. Clearly, many veterans are hired by federal contractors. However, without either a reliable means of evaluating these hiring trends or the data necessary to carry out this evaluation, it is impossible to say with confidence that the law has had a demonstrable effect on the hiring of veterans by federal contractors.

Without established criteria, we believe that a reliable indicator of the legislation's effect would be a comparison of the relative number of veterans in the contractor workforce with that in the private sector workforce. Labor does not make this comparison. It lacks data on total employment in the contractor workforce and therefore cannot determine

the percentage of veterans in that workforce. Labor may be able to obtain total employment data from EEOC or from contractors directly. The feasibility of using data that contractors provide to EEOC would necessitate additional study to determine the compatibility of EEOC's and Labor's systems. Most of the contractors we spoke with said providing total employment data on the VETS-100 report would not be a burden.

We further believe that Labor is limiting opportunities for veterans by narrowly defining job openings that are suitable for listing with state job service centers. Contractors are required by legislation to list suitable job openings with these centers that in turn are to provide priority consideration for the jobs to veterans. In its interpretation of this legislation, Labor defined suitable job openings as those that pay less than \$25,000 per year. This interpretation appears inconsistent with the legislative intent of increasing the numbers of jobs listed with state job service centers and unnecessarily limits opportunities for veterans, particularly considering that most are now in midcareer age groups.

## Recommendations to the Secretary of Labor

To enable Labor and Congress to assess the effectiveness of the federal contractor legislation for special disabled veterans and, if still relevant, for Vietnam-era veterans, we recommend that the Secretary of Labor

- obtain, either from federal contractors or from EEOC, contractors' total number of employees;
- determine, from the total number of employees and the already available information on contractors' veteran employees, the percentage of the contractor workforce that is composed of special disabled and Vietnam-era veterans;
- compare the ratio of veterans to nonveterans in the federal contractor workforce with the ratio existing in the applicable private sector workforce and provide the results of this comparison to Congress; and
- require OFCCP to use the comparative information for individual contractors to target contractors for review.

We also recommend that Labor remove the outdated \$25,000 per year salary limitation in its implementing regulations for contractor job openings, which are to be listed with state job service centers. Removing the limit will increase the number of job openings that are listed with state job service centers and thus will provide additional job opportunities for special disabled and Vietnam-era veterans.

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## Matters for Congressional Consideration

Once Labor has taken the actions needed so that the effects of the federal contractor legislation can be reliably assessed, Congress may wish to review the data to determine whether it finds these effects acceptable. If Congress decides that the legislative intent of enhancing the employment opportunities of veterans in the contractor workforce is not being met and is still relevant, it may wish to discuss with Labor alternative provisions for implementing the act. One alternative for consideration could be to incorporate in the legislation general or specific goals to be achieved in federal contractors' hiring of veterans.

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## Agency Comments and Our Evaluation

In an August 18, 1993, letter, Labor's Acting Assistant Secretary for Employment Standards sent us Labor's comments on a draft of this report (see app. II). He said that the comments represented the combined input of the Employment Standards Administration and VETS. Essentially, Labor agreed with our recommendations to assess the effectiveness of federal contractor legislation and eliminate the \$25,000 salary limitation on mandatory job listings by contractors. They disagreed, however, with certain aspects of our recommended analytical model for comparing the relative number of veterans in the contractor workforce with that in the noncontractor workforce. Specifically, they questioned the cost and reliability of developing and using the model but did not identify any alternative approaches.

To minimize the cost of developing an analytical model, we proposed a model that would use (1) data that are already gathered for Labor's Bureau of Labor Statistics to determine the numbers of veterans in the noncontractor workforce and (2) data that are already developed by contractors for EEOC as required by federal equal employment opportunity mandates and data that are already reported to Labor by contractors on VETS-100 reports to determine relative numbers of veterans in the contractor workforce. Although Labor did not provide us with the estimated cost of consolidating EEOC and VETS-100 data, they told us that there would be systems compatibility concerns if data on contractor employment were obtained from EEOC. On the other hand, data from EEOC would not have to be combined with data from the VETS-100 reports if the existing VETS-100 reports were modified by Labor to include total employment data similar to that reported to EEOC. Most contractors told us they would not object to reporting total employment data to Labor because similar data are already reported to EEOC.

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In its comments on the reliability of our proposed analytical model, Labor said that there was a flaw in our methodology because special disabled and/or Vietnam-era veterans may not identify themselves as such, particularly to contractors. Labor believes that veterans are more prone to identify themselves as such in anonymous population surveys. However, we question the extent to which veterans would hide their status from contractor employers. When applying for employment with contractors, veterans would have an incentive to disclose their status because it may increase their chances for employment, given the contractors' mandate for affirmative action. In addition, contractors would have an incentive to survey or otherwise fully identify all special disabled and Vietnam-era veterans in their workforce; otherwise substantial undercounting may subject them to increased scrutiny during Labor audits or challenges to their affirmative action programs.

Labor provided additional comments intended to clarify the language in our report. We considered the comments and made changes to our report as appropriate. Our evaluation of the comments is provided in appendix II.

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As agreed, we will send copies of this report to the Secretaries of Labor and Veterans' Affairs. We will make copies available to others on request.

Please contact me on (202) 512-5074 if you have any questions. Major contributors to this report are listed in appendix III.



Nancy R. Kingsbury  
Director  
Federal Human Resource Management  
Issues



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Table 1: Unemployment Rates for Male Veterans and Nonveterans, as of September 1991

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## Abbreviations

EEOC	Equal Employment Opportunity Commission
OFCCP	Office of Federal Contract Compliance Programs
OPM	Office of Personnel Management
VETS	Veterans' Employment and Training Service

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# Scope and Methodology

To determine whether federal contractors' hiring practices met legal requirements, we reviewed the hiring practices of 29 selected contractors. Twenty-eight of the contractors were selected with OFCCP's assistance, and 26 of the 28 had been previously reviewed by OFCCP. Another contractor was selected as a result of discussions with our congressional requesters. To select contractors, we tried to achieve not only a broad geographic representation but also a mix of contractor types and sizes. The selected contractors came from five states (Alabama, New Jersey, Ohio, Texas, and Washington). Of the 29 contractors, 22 were supply and service contractors, and 7 were construction contractors. Twelve of the contractors had more than 1,000 employees, 13 had between 100 and 1,000 employees, and 4 had fewer than 100 employees. With each of the selected contractors, we discussed their hiring practices and procedures for veterans and their compliance with the various reporting requirements. We also reviewed the selected contractors' affirmative action plans for veterans, when applicable, as well as OFCCP audit reports. Finally, we interviewed OFCCP regional and district officials about their reviews of federal contractors.

To determine state job service centers' practices of providing priority referral to veterans, we interviewed 25 job service center managers in 13 states (Alabama, California, Illinois, Iowa, Kansas, Massachusetts, New Jersey, New York, Ohio, Oregon, Texas, Vermont, and Washington). These 13 states contained nearly 1,000 job service centers out of about 1,600 nationwide. Assisted by the regional administrators of Labor's VETS, we judgmentally selected job service centers to achieve geographic representation and to achieve a mix of centers that had either difficulty or success in placing veterans with contractors. We limited our selection of centers after determining that their practices, views, and policies were very similar to one another. We also interviewed 8 of the 10 VETS regional administrators (in California, Georgia, Kansas, Massachusetts, New York, Colorado, Texas, and Washington) and 1 VETS state director in Ohio.

Finally, in an attempt to assess the effect of federal contractors' compliance with veterans' referrals and placement requirements, we reviewed national data on job service centers' referrals and placement of special disabled and Vietnam-era veterans. We also obtained and analyzed data from Labor and other sources to determine the feasibility of judging program results. In addition, we discussed with contractors and job service center officials the effect of compliance.

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**Appendix I**  
**Scope and Methodology**

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The information in this report relates only to the contractors and Labor officials we interviewed and the data we reviewed. Because the number of contractors we reviewed is not statistically representative of the contractor population as a whole, our results cannot be generalized. However, our results may be indicative of the wide range of contractor employment policies and practices.

# Comments From the Department of Labor

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

**U.S. Department of Labor**

Assistant Secretary for  
Employment Standards  
Washington, D.C. 20210



**MJG 18 1993**

Ms. Nancy Kingsbury  
Director  
Federal Human Resource Management  
Issues  
U. S. General Accounting Office  
441 G Street, N.W. Room 3858A  
Washington, D.C. 20548

Dear Ms. Kingsbury:

Thank you for the opportunity to review your staff's draft report entitled, **Federal Contractor Hiring: Effect of Veteran Hiring Legislation is Unknown (GAO/GGD-93-XXX)**.

Enclosed please find our response to the draft report, which includes our response to its recommendations to the Department of Labor as well as our comments on other matters raised in the draft. This response represents the combined input of the Employment Standards Administration and the Veterans' Employment and Training Service. I hope that you will give this information serious consideration in finalizing the report.

Please let me know if we can be of any further assistance as you finalize the report.

Sincerely,

*John R. Fraser*  
John R. Fraser  
Acting Assistant Secretary

Enclosures

U. S. Department of Labor's Response to  
The Draft General Accounting Office Report  
Entitled -- Federal Contractor Hiring: Effect  
of Veterans Hiring Legislation is Unknown

**GAO Recommendations**

"To enable Labor and Congress to assess the effectiveness of the federal contractor legislation, we recommend that the Secretary of Labor

- obtain, either from federal contractors or from EEOC, contractors' total number of employees;
- determine, from the total number of employees and the already available information on contractors' veteran employees, the percent of contractors' work force that is composed of special disabled and Vietnam-era veterans;
- compare federal contractors' ratio of veterans to nonveterans with the ratio existing in the applicable noncontractor work force and provide the results of this comparison to Congress; and
- require OFCCP to use the comparative information for individual contractors to target contractors for review."

**RESPONSE**

The Department concurs.

**Comments**

A major concern is the analytical model proposed by GAO as a valid measure of the program's effectiveness. Its implementation would be expensive with no assurance of producing the "reliable" measurements asserted. The proposed model would compare the percentages of the total Federal contractor workforce comprised of special disabled veterans and Vietnam-era veterans to the percentages those same two groups of workers comprise in the non-contractor workforce.

Besides the fact that neither database currently exists, there is a basic flaw in the proposed methodology: to be comparable, it would have to be assumed that the same proportion of all disabled and/or Vietnam veterans in both the Federal contractor and the non-contractor workforces voluntarily identify themselves to

See page 15.

See page 16.

their employers and to the Bureau of Labor Statistics' Current Population Survey(ers) respectively. Both databases upon which the proposed model would be built are dependent upon that self-identification, yet many disabled and/or Vietnam veterans see no advantage to identifying themselves as such, particularly to employers. On the other hand, such individuals might provide self-identification to the Current Population Survey (CPS), since the CPS provides anonymity. Thus, the results would probably be skewed by underrepresenting the presence of disabled and Vietnam veterans in the contractors' workforce.

**GAO Recommendation**

"We also recommend that Labor delete the outdated \$25,000 per year salary limitation in its implementing regulations for contractor job openings which are to be listed with state job service centers. Removing the limit will increase the number of job openings listed with state job service centers and will provide additional job opportunities for special disabled and Vietnam-era veterans."

**Response**

The Department concurs.

**Comments**

The Department has been engaged in the study of several of these issues, particularly the lack of total employment data and the \$25,000 threshold, preparatory to proposing operational improvements to the program. Revisions to our current mode of enforcing the regulations will require regulatory changes.

**Additional Comments**

Although our authority under the Act speaks to the nondiscrimination and affirmative action requirements of Federal contractors for all personnel activities involving Vietnam-era and disabled veterans, our primary concern in this report is with hiring preferences. Therefore, we feel obliged to point out major differences between the intent of the regulations and the apparent thrust of the report.

This report also suggests that the superior model for promoting employment within the contractor workforce is the establishment of specific goals, such as is done for women and minorities. We need to devote our resources to establishing the database necessary to implement that sort of program direction in lieu of the present one, if the Administration and Congress determine that the referenced categories of veterans need this sort of special assistance.

See comment 1.

Appendix II  
Comments From the Department of Labor

Other comments regarding specific language in the report are provided below:

pp. 2: The draft reports states that, "We now address the preferred consideration that federal contractors, working with state job service centers, are to give special disabled and Vietnam era veterans."

"-- whether and to what extent federal contractors and state job service centers are fulfilling the requirements of the legislation designed to provide veterans with preferential consideration for employment"

Neither the language of the Act, nor its legislative intent, envisioned preferred consideration. Public Law 93-508 changed the original language from special emphasis to affirmative action, and in so doing, clarified the intent in the Conference report (Conference Report 1240)<sup>1</sup> by noting:

"It is the conferees' objective in making this clarification to ensure that the goals of the program, as spelled out above, will be achieved according to an orderly and effective timetable, backed up by an effective compliance mechanism. The affirmative action requirement does not necessarily mean, however, that specific numerical or percentage goals or timetables will be made applicable to contractors and subcontractors at this time and with respect to this provision."

Veterans' Preference is a term more readily applied to the federal government's statutory hiring preference afforded to veterans. We suggest the use of other language that avoids implying "preferential" consideration, such as "special consideration" or "special employment opportunities."

pp. 3: The draft report states that, "The law, as amended, has four key requirements:...Labor's Office of Federal Contract Compliance Programs (OFCCP) is largely responsible for this function."

OFCCP deals with two of these, assuring that contractors have properly discharged their affirmative action obligations and listing of job openings with state job service centers. The Office of the Assistant Secretary for Veterans' Employment and Training Service shares responsibility for the job listing functions with its reviews of state job service centers, as well as having the responsibility for the other requirement listed.

Now on page 2.

See comment 2.

Now on page 2.

See comment 3.

Appendix II  
Comments From the Department of Labor

Now on pages 3 and 4.

- pp. 5: The draft report states that, "These Vietnam-era veterans also have a lower overall unemployment rate than non-veterans."

This remains true. However, the report should clarify that the most recent survey indicates that service-connected disabled veterans have the same unemployment rate as do non-veterans.

A September 1991 survey conducted by the Bureau of Labor Statistics (BLS) obtained data on both Vietnam-era and service connected disabled veterans. This survey indicates that there were 365,000 unemployed Vietnam-era (a 5.0% unemployment rate)<sup>2</sup> and 68,000 unemployed service-connected disabled veterans (6.6% unemployment rate)<sup>3</sup>.

See comment 4.

These rates compared with a non-veteran unemployment rate of 6.6%<sup>4</sup> during the same period.

Now on pages 3 and 4.

- pp. 5: The draft report states that, "As we reviewed the implementation of the federal contractor legislation, a broader issue emerged--one that lay outside the confines of our objectives, but one that our review has indicated may be appropriate to consider in the future. This Vietnam-era legislation is now more than 20 years old. The Vietnam-era veterans whose readjustment and employment opportunities the law was designed to enhance are now older and the number of such veterans entering the general work force is declining. These Vietnam-era veterans also have a lower overall unemployment rate than non-veterans. The goals and provisions of the legislation may need re-examination regardless of the legislation's effectiveness 2 decades after it was first enacted."

The suggested re-examination should be considered before expending resources on the data collection necessary to support a cost/benefit or value analysis of the program's effectiveness. If Congress upon reexamination reevaluates their policy or priorities, the data development recommended may not be necessary. We think it ill-advised to spend money deciding whether the federal contractor program works for Vietnam-era veterans so long as the GAO questions whether there is a sound policy basis for the program emphasis on Vietnam-era veterans.

See comment 5.

Now on page 8.

- pp. 13: The draft report states that, "While contractors and job service centers are required to take certain actions to provide job opportunities for veterans, these actions do not necessarily result in veterans' employment."

This statement requires amplification. We suggest use of the following language:

"While contractors and job service centers are required to follow certain procedures regarding job opportunities for special disabled and Vietnam-era veterans, there is no data available that enables measurement of the impact of these procedures on the employment of veterans by federal contractors."

See comment 6.

Now on pages 9 and 10.

- pp. 16: The draft report states that, "As required by law (38 U.S.C. 4212), the form [VETS-100] asks for information on veterans and non-veterans hired during the past 12-month period and on veterans on the contractors' payroll. The form does not ask for information on non-veteran or total employment."

The report should clarify that the law itself does not authorize collection of non-veteran or total employment data. It does authorize the collection of data on all new hires, including special disabled and Vietnam-era veterans specifically, as well as special disabled and Vietnam-era veteran employees.

See comment 7.

Now on page 11.

- pp. 19: The draft report states that, "Aggregate statistics from contractors on their total or nonveteran workforce would enable Labor to calculate the percentage of the contractor sector composed of special disabled and Vietnam-era veterans. It could then compare these statistics with similar ones that are already available for the private sector as a whole."

The key word, and flaw in the recommendation, is "similar." Actually, the statistical bases are dissimilar and otherwise flawed. The report should clarify that data available on veterans' employment within the private sector comes from a sample-based CPS conducted by BLS. The survey's 60,000 household sample includes about 17,000 veterans. The number of service-connected disabled veteran respondents is very small (about 300), thus the margin of error is high and reliability low. Also, there is no direct comparability between the statutory definition of "special disabled veteran" (rated at 30% or more) and the data collected in the survey (service-connected disabled veterans includes all ratings).

See comment 8.

We are concerned that there are sufficient differences between the data collections; i.e., the BLS Current Population Survey, the VETS 100, and the EEO-1, that only the broadest of assumptions or inferences can be made. Further, there is no readily available information source that would enable identification of the entities that are required to submit either the EEO-1 or VETS-100 reports to determine the universe of federal contractors subject to either requirement. To determine whether an entity was a federal contractor as defined under §4212(e) or not would require a federal presence in every prime contractor's place of business to tally contracts and subcontracts made with other entities to fulfill government contracts; or additional legislation or regulations requiring each contractor to inform sub-contractors of their reporting responsibility and some compliance mechanism. This effort would require a huge expenditure of federal resources.

- pp. 20: The draft report states that, "Contractors as well as noncontractors list jobs with state employment service centers because they need assistance in filling jobs; veterans as well as nonveterans have filled these positions without the benefit of priority referrals."

This statement needs clarification. State employment service centers are required to provide priority to veterans for job referrals regardless of whether the listing employer is a federal contractor or not. Although it may be true that veterans as well as nonveterans are placed as a result of referrals, if the statement noted on page 12 ["some contractors hired employees from among the first candidates applying"] is true, there is some advantage to veterans. Figure I (attached), which is a graphic representation of the placement rates achieved by all Job Service agencies, indicates that the overall statutory interventions regarding veterans' priority for referral have a positive effect on veterans' hiring, and is supported by the statement on page 12.

- pp. 20: The draft report asserts that, "While numerous veterans have undoubtedly benefitted by the job listing requirement and priority referral process, many of these veterans would likely have been hired in the absence of the process." and,

Now on page 12.

See comment 9.

Now on page 12.

pp. 12: "Some contractors we reviewed told us they hired applicants from among the first ones who applied for a position."

Now on page 7.

We are not sure the statement on page 20 (quoted above) can be made without further clarification. From page 12 of the report it appears that for some contractors the priority referral would have had an impact on the employee hired. It appears from that observation that priority referral is of some benefit. Similarly, it appears that job listings by federal contractors are of some benefit.

See comment 9.

pp. 21: The draft report states that, "State job service center officials we contacted could not show that the priority referral system was an effective means of giving veterans an advantage in obtaining employment with contractors.

Now on page 12.

Similarly, although job service centers maintain statistics on how many of the veterans they referred were hired, there is no assurance that the priority referral was directly responsible for the hiring. That is, the veterans might have been hired even if they had been considered along with nonveteran applicants--the "priority" of the referral might have made no difference."

The findings cited on page 12 seem to indicate that, for those employers that tend to hire the first qualified person interviewed or for those that were in a hurry to fill a position, priority referrals were advantageous for veteran applicants.

See comment 9.

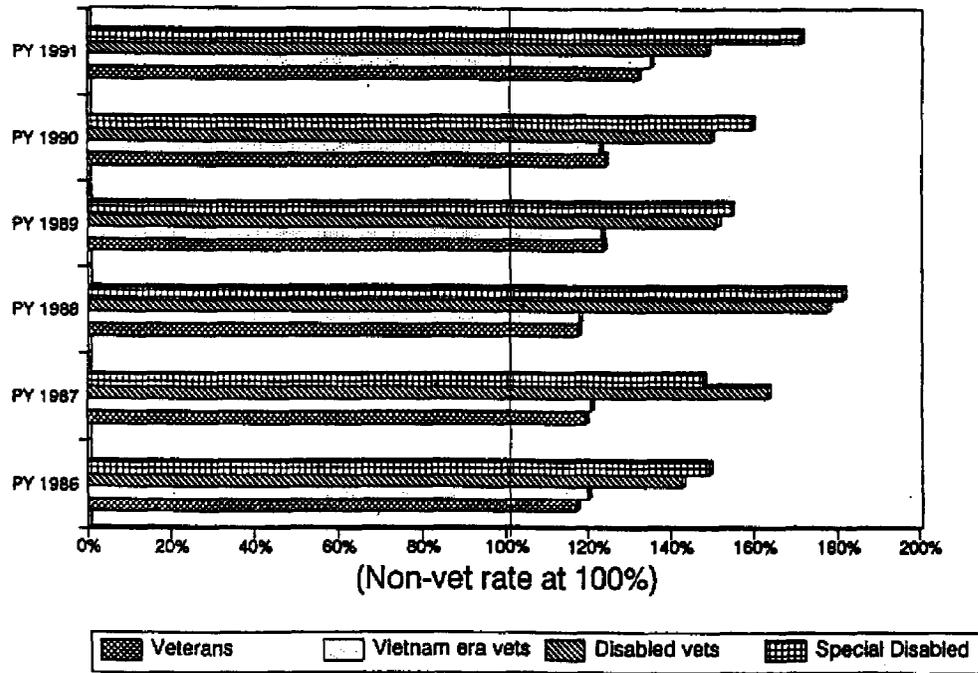
It should be noted that national aggregated data from State Employment Security Agencies (SESAs) indicates that Vietnam-era and special disabled veteran registrants enjoy a higher rate of employment and placement activity than non-veteran registrants. This is depicted graphically in Figure I (attached). This might be due to the system designed to afford them priority consideration in the process.

The reference to "might have been" appears to be an assumption not based on any of the previously noted findings and as such should not be included in the report.

1. Conference Report 1240, Joint Explanatory Statement of the Committee Conference, Title IV, pp. 6344.
2. BLS Reports on Labor Market Situation of Vietnam-era Veterans, May 14, 1992, Table 2.
3. BLS Reports on Labor Market Situation of Vietnam-era Veterans, May 1992, Table 4.
4. BLS Reports on Labor Market Situation of Vietnam-era Veterans, May 1992, Table 1.

FIGURE I

Comparison of Placement Rates  
Veteran Group vs. Nonveteran Placements



The following are GAO's comments on the Department of Labor's August 18, 1993, letter.

## GAO Comments

1. We did not mean to imply that goals represent the "superior model" for promoting employment within the contractor workforce, nor do we recommend specific hiring preferences for veterans. Our report notes that hiring goals for veterans are not mandated by legislation. Our purpose in noting the absence of goals is to show the absence of specific measurable criteria by which the impact of legislation can be measured. In our "Matters for Congressional Consideration," we state that if Congress decides that the legislative intent of enhancing the employment opportunities of veterans in the contractor workforce is not being met and is still relevant, it may wish to discuss with Labor alternative provisions for implementing the act. We state that one alternative for consideration would be to incorporate in the legislation general or specific goals to be achieved in federal contractors' hiring of veterans.
2. We agree that the terms "preferred" and "preferential" may be misleading. We have changed the terms to "special" as Labor suggested.
3. We modified our report (on p. 2) to include Labor's Veterans' Employment and Training Service (VETS).
4. Although the unemployment rate of disabled veterans with service-connected disabilities may be similar to that of nonveterans, the information is not relevant to our point. We discuss the need for legislation to benefit Vietnam-era veterans. Unlike veterans who are still being released from the military with recent service-connected disabilities, Vietnam-era veterans are older and may have less of a need for special employment consideration.
5. We agree that it would not be necessary for program evaluation purposes to collect data on Vietnam-era veterans if Congress decides to eliminate them from program consideration. Therefore, we modified our recommendations to Labor (on p. 14) to consider this possibility.
6. We agree that data are not available to measure the impact of certain procedures regarding job opportunities for veterans. Therefore, we modified our report (on p. 8) as Labor suggested.

7. We modified our report (on p. 10) to clearly state that the law does not specifically authorize the collection of nonveteran or total employment data.

8. We agree that Bureau of Labor Statistics information is based on a sample and would be subject to a sampling error. Therefore, sampling error would need to be considered when using such information. We recognize that the sampling error may prevent Labor from making all but very general assumptions concerning the impact of legislation. Information on veterans with disabilities rated at a minimum of 30 percent is not included in the Bureau of Labor Statistics' Reports on Labor Market Situation of Vietnam-Era Veterans. However, information is collected for the Bureau of Labor Statistics on the disability ratings of disabled veterans. We agree that Labor does not receive VETS-100 reports from every contractor that is required to submit one. However, no system is available to provide even the "broadest of assumptions or inferences" as to the possible impact of legislation. We suggest that without flawless data to prove or disprove a relationship between legislative requirements and veteran employment, data that are currently available or obtainable could be used as an indicator of possible effect.

9. We revised our report to clearly state that the priority referral process may be beneficial to veterans when contractors hire from among the first applicants applying for jobs. We also clarified the report to show that the priority referral process may be benefiting veterans, although the extent of the benefit has not been quantified. Information provided by Labor from state employment security agencies shows that veterans have a higher placement rate than nonveterans but does not show a linkage between this success and mandatory job listings or priority placement.

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